APPEAL NO. 022734
FILED DECEMBER 2, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on September 19, 2002. The hearing officer determined that (1) the appellant (claimant) did not sustain compensable injury on _____; (2) the respondent (carrier) is not relieved of liability under Section 409.002 because the employer had actual knowledge of the claimed injury pursuant to Section 409.001; (3) the carrier is relieved of liability under Section 409.004 because of the claimant's failure to timely file a claim for compensation with the Texas Workers' Compensation Commission (Commission) within one year of the injury, as required by Section 409.003; (4) the claimant did not have disability; and (5) the claimant is not barred from pursuing Texas workers' compensation benefits because of an election to receive benefits under a health insurance policy or an automobile policy. The claimant appeals the injury, disability, and timely filing determinations on sufficiency of the evidence grounds. In its response, the carrier urges affirmance. The hearing officer's notice and election-of-remedies determinations were not appealed and are, therefore, final. Section 410.169.

DECISION

Affirmed.

The claimant attached new evidence to the appeal, which would purportedly show that he is entitled to the relief sought. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. *See generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered is not so material that it would probably produce a different result, nor is it shown that the documents could not have been obtained prior to the hearing below. The evidence, therefore, does not meet the requirements for newly discovered evidence and does not necessitate a remand.

The hearing officer did not err in reaching the complained-of determinations. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). Nothing in our review of the record reveals that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse the determinations that the claimant was not in the course and scope of his employment at the time of his motor vehicle accident, that the accident did not cause an injury within the meaning of the 1989 Act, that the claimant did not timely file his claim for

compensation and did not have good cause for his failure to do so, and that the claimant did not have disability. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Margaret L. Turner
Appeals Judge